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Testimony

Before the Committee on Resources

Unites States House of Representatives

Hearing on HR5018 to amend the Magnuson-Stevens Fishery Conservation and Management Act

May 3, 2006

Mr. Chairman, and members of the Committee on Resources thank you for the opportunity to testify on H.R. 5018, the American Fisheries Management and Marine Life Improvement Act. I am here today on behalf of Associated Fisheries of Maine.

Associated Fisheries of Maine, established in 1956, is a trade association of fishing and fishing dependent businesses. Our membership includes harvesters, processors, dealers of fuel, ice and fishing gear, marine insurers and lenders, and other public and private businesses and individuals with an interest in commercial fishing. Members of Associated Fisheries of Maine are dependent on the sound management of the New England groundfish fishery. I am also the co-owner of the F/V *Olympia*, a New England groundfish trawler that provides the primary economic support for my family.

Associated Fisheries of Maine appreciates the work that you and your staff have done to develop a Magnuson-Stevens Fishery Conservation and Management Act re-authorization bill that recognizes the delicate and difficult balance fisheries managers must strike in order to conserve our fishery resources while preserving our fishing families and communities.

Associated Fisheries of Maine has a long history of supporting rational management measures for the New England groundfish fishery. I personally have served on several of the New England Fishery Management Council's advisory panels, including many years as Chair of the groundfish advisory panel.

The provision of the Magnuson-Stevens Act that gets most attention is that which requires fisheries managers to identify overfished stocks and set about rebuilding them. Associated Fisheries of Maine fully supports this mandate. However, we believe that the re-authorization process ought to undertake a careful lessons learned approach in deciding how to refine this obligation.

The New England groundfish fishery is comprised of 19 separate stocks of fish, most of which are co-mingled. After years of strict conservation measures, the majority of these stocks are well on their way to being fully rebuilt, and there is every indication that these stocks will continue to rebuild over the long-term. What is not so certain is whether in the short term, New England fishing communities will be able to maintain the infrastructure needed to harvest the resource and bring this highly valued seafood to the public.

During the past couple of years, the fishing mortality rate for a few of the 19 groundfish stocks has been higher than managers would have liked. As a result, much criticism has been heaped on New England fishery managers and fishing communities as we struggle with the difficult challenge of managing a multispecies complex. What is often left out of the story, however, is the fact that during these last few years, the majority of stocks within the New England groundfish complex have been under-harvested due to increasing restrictions on a few stocks.

The criticism of New England groundfish management has been so severe of late that many have called upon Congress to make the overfishing provisions of the Magnuson-Stevens Act more stringent and less flexible, to the point of demanding that all fisheries adhere to strict catch levels known as fixed total allowable catch (TAC) or quotas, even within a multispecies complex, and even if adherence to strict catch levels means closing down fisheries and imposing severe economic hardship on fishing communities. You may be surprised to know that most of the harshest critics of New England fishery management are not aware that nearly thirty years ago, prior to and immediately following the enactment of the Magnuson Act, New England groundfish was indeed managed by a quota system under the International Commission for the Northwest Atlantic Fisheries as well as by the New England Council and the National Marine Fisheries Service.

I am footnoting my written testimony with references that will support my assertion that the use of fixed quotas at that time to manage New England groundfish was a catastrophic failure, an administrative and enforcement nightmare, which caused a race to fish, human safety ramifications, and an unconscionable waste of the resource through premature closures of the fishery.

While many critics of New England's fishery management call upon Congress to mandate fixed quotas as the solution, they fail to point out that fixed quota management is indeed currently in operation for three stocks within the New England groundfish complex. As perhaps the most telling example of the so-called success of fixed quotas, one only has to look at the current condition of Georges Bank yellowtail flounder.

For years, New England fishermen under-harvested the *target* total allowable catch due to large area closures and restrictions on days at sea. In 2003, scientists considered the once heavily depleted Georges Bank yellowtail flounder fishery to be A rebuilt @ , and in the same year the US/Canada Resource Sharing Agreement (adopted in Amendment 13 to the groundfish plan) imposed a fixed quota once again for cod, haddock, and yellowtail flounder.

In 2004, and for the first time in many years, New England fishermen actually caught and landed the entire quota for Georges Bank yellowtail. I want to stress that the quota was not exceeded, yet in 2005, a A retrospective @ assessment of Georges Bank yellowtail asserted that the stock was A overfished @ and A overfishing was occurring @ , begging the question:

A If fixed quotas are indeed the cure for groundfish management in New England, how can Georges Bank yellowtail flounder now be overfished? How can overfishing be occurring? The short answer is that fixed quota management, in the face of ever changing conditions that may have nothing to do with fishing, is not infallible.

Associated Fisheries of Maine would also like to make the Committee aware that other countries are moving away from quota based systems towards fishing effort controls similar to those used in New England groundfish.

For example, in the 1990's the Faroe Islands moved from a quota based system to a fishing days system. A The system has been credited not only for wholly preventing the problem of fish dumping, but also for striking a sound balance among ecological, social and economical interests in the Faroe Islands @ . Likewise a 2003 report of the Royal Society of England on fisheries management states: A One achievable action would be to replace the traditional emphasis on methods of controlling catches with controls on fishing effort, a strategy that would also address the cumbersome and costly nature of enforcing current management strategies. @ In 2003, the Royal Society of Edinburgh Scotland made the following recommendations regarding management of cod in the North Sea: A While we recognise that the exceptionally serious condition of cod stocks requires regulation targeted at cod, we consider that, in a multispecies fishery, there are difficulties in trying to manage a single stock. If the principal aim is to have a sustainable whitefish sector, the better option in the longer term may be to focus on maximising the harvesting potential from the full range of demersal fisheries in Scottish waters. We consider that illegal landings and discards are always likely to be problems so long as regulation of the demersal sector is based on catch quotas and single species TACs. We therefore recommend that the EU Commission should replace the present system of catch quotas for the demersal sector and *Nephrops* trawl fisheries with effort control (days at sea) and closed areas @ .

Therefore, Associated Fisheries of Maine asks that you resist pressure to require that all US fisheries be managed using quota systems, because we are acutely aware of the failure of this type of system in New England; and so that New England can continue to use a variety of tools that are more appropriate to

multispecies management.

Associated Fisheries of Maine is pleased to note that HR5018 does not include a mandate to end overfishing within a specific timeline. Last week in New Bedford, MA you heard testimony from NOAA Fisheries Chief Science Advisor who described the law's current 10-year rebuilding timeline for overfished stocks as arbitrary. However, the Administration is now advocating an equally arbitrary timeframe for ending overfishing, and we ask that you not include that recommendation in HR5018. Again, fisheries managers must be encouraged to consider the impacts of regulations on fishing communities and to do so they must maintain the flexibility to phase-in reductions, so long as the rebuilding requirements are ultimately achieved. It is precisely these types of indefensible deadlines that provide ample fodder for litigation.

Associated Fisheries of Maine supports the vision of HR5018 to move towards ecosystem-based approaches to fisheries management, and we commend Chairman Pombo for including a non-mandatory provision to move fisheries management in that direction. We believe that before ecosystem principles can be incorporated into all fishery management plans, a great deal of research must continue and be augmented to understand the complex interrelationships within marine ecosystems, and therefore non-mandatory encouragement is the best approach at this time.

Regarding marine protected areas, we do recognize and appreciate the fact that the authority specified for this provision is discretionary. However, we are concerned that the requirements with respect to the closure of a given area to fishing (i.e. requirements for use of best available science, assessment of conservation benefits, timely review of need for a closure, determination of benefits and impacts of closure, etc.) are triggered only if an area is closed to all fisheries. This is problematic in that certain fisheries or gear types or fishing sectors could easily be removed from an area while the requirements normally used to justify the closure would not be triggered since other fisheries might still be allowed to operate in the area. This provision would be acceptable with a small change -- that all the requirements currently specified under subsection (h)(16) be triggered if just one fishery is removed from an area pursuant to this provision rather than waiting until all fisheries are prohibited.

Again, Mr. Chairman, please accept the sincere appreciation of Associated Fisheries of Maine for your willingness to become well versed in the complexities of fisheries management, for the common senses approach that is the basis of HR5018, and for your obvious sensitivity to the needs of resource based communities. I would be happy to answer any questions about my written or oral testimony that the Committee may have.